

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN LEE TETREAU,

Petitioner,

v.

CASE NO. 2:12-cv-10013
HONORABLE DENISE PAGE HOOD

WILLIE SMITH,

Respondent.

_____ /

**ORDER DENYING PETITIONER'S MOTION
TO COMPEL RESPONDENT TO COMPLY WITH RULE 5**

On January 3, 2012, petitioner Kevin Tetreau filed a *pro se* habeas corpus petition under 28 U.S.C. § 2254. The petition, as amended, alleges that (1) the trial court violated Petitioner's right to assistance of counsel by forcing him to represent himself and (2) the trial court abused its discretion by refusing to instruct the jury on the use of nondeadly force.¹ On May 18, 2012, Respondent filed an answer to the petition and certain state court records required by Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts.² Pending before the Court is Petitioner's Motion to Compel Respondent to Comply with Rule 5 by filing a surveillance digital video disc (DVD) or frame-by-frame photocopies of same.

¹ The petition initially raised two additional issues, but Petitioner opted to delete those claims after the Court ordered him to show cause why the petition should not be dismissed for failure to exhaust state remedies for all his claims.

² Rule 5(c) requires the respondent in a habeas corpus action to "attach to the answer parts of the transcript that the respondent considers relevant."

Petitioner has not explained what is depicted in the DVD or photocopies. Nor has he alleged how the DVD or photocopies are relevant to his habeas claims, and it appears that the Rule 5 materials submitted by Respondent are adequate to assist the Court in adjudicating Petitioner's habeas claims. Accordingly, the motion to compel Respondent to Comply with Rule 5 [document number 10, filed on May 25, 2012] is **DENIED**.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: September 25, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 25, 2012, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager